

OGC Has Reviewed

SPD

Office of the General Counsel

16 November 1948

Executive Order 9805

1. The problem presented in your memo of 28 October has been considered and the appropriate authorities reviewed. The writer has also discussed the Order with its author and members of the Bureau of Federal Supply and the G.A.O.
2. Executive Order 9805 (as amended by Executive Order 9933) was issued under the authority of P.L. 600, 79th Congress. The amendment, however, is not pertinent to the problem presented in your case.
3. There are some patent inconsistencies on the face of the Order itself and more than a normal confusion has been encountered in its application. The basic limitations of Government liability, however, are simply seven thousand (7000) pounds for uncrated goods and an additional allowance of twenty-five per cent or a total limit of eight thousand seven hundred fifty (8750) pounds for crated. This applies to all goods regardless of the mode of transportation. The Order carries a further limitation of an arbitrary evaluation of gross weight at eighty per cent of the combined weight of goods and crating in certain cases. G.A.O. has informed me that this is used only in shipments by van where the reduction is made because of the shipper's normal practice of crating only part of the goods. The limitation is ignored in shipments by truck, rail, or vessel where such partial packing is not employed. Thus, in answer to your specific question regarding a shipment of five thousand nine hundred eighty (5980) pounds of goods in a lift van of three thousand seven hundred twenty (3720) pounds involving transportation all or partly by vessel (apparently by an employee having an immediate family), a maximum limit of eight thousand seven hundred fifty (8750) pounds is applicable and any amount in excess of that figure cannot be accepted as a proper charge against the Government.
4. At least in the Bureau of Federal Supply, the twenty-five per cent differential for packing is considered inadequate. If application of the Order results in an almost standard hardship to our employees, then you may wish to discuss internally a possible change through concerted action by various agencies. For this purpose, Mr. Newenbaum, X-371, in the Bureau of Federal Supply would probably be willing to coordinate the effort. Upon request this office will be pleased to assist further in this matter.